

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angel Rendon	Team: Team # 1	CCRB Case #: 201210138	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/05/2012 12:55 AM	Location of Incident: § 87(2)(b)	Precinct: 79	18 Mo. SOL 2/5/2014	EO SOL 2/5/2014	
Date/Time CV Reported Tue, 08/07/2012 10:18 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 08/07/2012 10:18 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Andy Scantlebury	03699	937500	079 PCT
2. POM Brian Alexander	00570	948599	079 PCT
3. An officer			079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Raymond Williams	22154	947610	079 PCT
2. POF Pamela Benites	13086	946728	079 PCT
3. SGT Anthony Famighetti	03585	932617	079 PCT
4. POM Lukasz Organistka	19797	944861	079 PCT
5. POM James Haley	10468	949076	079 PCT
6. SGT Paul Scocca	03616	935713	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke rudely to an individual.	§ 87(2)(b)
B.POM Andy Scantlebury	Force: PO Andy Scantlebury used pepper spray against § 87(2)(b)	§ 87(2)(b)
C.POM Brian Alexander	Force: PO Brian Alexander used pepper spray against § 87(2)(b)	§ 87(2)(b)
D.POM Andy Scantlebury	Abuse: PO Andy Scantlebury did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)

Case Summary

On August 7, 2012, § 87(2)(b) filed the following complaint with the CCRB using the CCRB Online Complaint Form (encl. 4a-4d).

On August 5, 2012, at approximately 12:41 a.m., officers from the 79th Precinct responded to § 87(2)(b) and arrested several individuals, including § 87(2)(b). The following allegations resulted.

Allegation A – Discourtesy: An officer spoke rudely to an individual.

§ 87(2)(g)

Allegation B – Force: PO Andy Scantlebury used pepper spray against § 87(2)(b)

Allegation C – Force: PO Brian Alexander used pepper spray against § 87(2)(b)

Allegation D – Abuse of Authority: PO Andy Scantlebury did not obtain medical treatment for § 87(2)(b)

§ 87(2)(g)

Results of Investigation

Civilian Statements (encl. 4a-7a):

Complainant/Victim: § 87(2)(b)

• § 87(2)(b)

• § 87(2)(b)

CCRB Statement (encl. 4a-6j):

On August 7, 2012, § 87(2)(b) provided a written statement to the CCRB (encl. 4a-4d). On August 8, 2012, § 87(2)(b) provided a phone statement (encl. 5a). On August 20, 2012, § 87(2)(b) was interviewed at the CCRB (encl. 6d-6f). On September 5, 2012, § 87(2)(b) provided a phone statement (encl. 6g). § 87(2)(g)

On the evening of August 5, 2012, § 87(2)(b) was on the § 87(2)(b) floor of § 87(2)(b) in Brooklyn, where he resides. It is a private residence with a ten foot deep by ten to twenty feet wide front yard. The perimeter of the front yard is marked by a five-foot-tall black gate. On this evening, 30 to 40 people were having a party in the street along the length of his block. The party was loud and music was being played. Through a street-facing window on the second floor, § 87(2)(b) had earlier seen his nephew, § 87(2)(b) and § 87(2)(b)'s friend, known to § 87(2)(b) only as § 87(2)(b) standing in the front yard talking. Both of them were § 87(2)(b) of age.

§ 87(2)(b) went outside dressed in a white tank top, black shorts with pockets, one of which contained a pack of cigarettes § 87(2)(b) did not recall which), and black and gray sneakers. Outside, § 87(2)(b) saw § 87(2)(b) and § 87(2)(b) standing inside the yard against the wall of the adjacent apartment building. There was an unmarked black Ford Explorer with a door open parked outside the residence, facing the opposite direction as vehicle traffic, and eight to nine other police vehicles parked along the street. PO Brian Alexander (identified by the investigation and described as a

white male, who stood 6'1", had a slim build, was in his mid-30s to mid-40s, and was dressed in uniform with his shield flipped over) entered the front yard and asked § 87(2)(b) if he was the guardian of § 87(2)(b) and § 87(2)(b). § 87(2)(b) explained that he was looking after § 87(2)(b) for the time being. PO Alexander asked § 87(2)(b) if he had identification. § 87(2)(b) explained that he could go upstairs and retrieve identification. PO Andy Scantlebury (identified by the investigation and described as a black male, who stood 6'11", had a stocky build, was in his mid-20s to early 30s, had short hair, and was dressed in uniform with his shield flipped over), who had been standing near the Ford Explorer this entire time, walked into the front yard and told § 87(2)(b) to put his hands against the same wall where § 87(2)(b) and § 87(2)(b) were standing. § 87(2)(b) complied and stood against the wall with his feet shoulder-width apart. PO Alexander positioned himself behind § 87(2)(b) and patted down his front shorts pockets. PO Alexander then became "rough" with § 87(2)(b) by kicking § 87(2)(b)'s legs apart in an effort to spread them farther. § 87(2)(b) said, "You don't have to be so aggressive." PO Scantlebury moved to § 87(2)(b)'s right, maneuvered an arm toward the front of § 87(2)(b)'s face, and discharged pepper spray into it in one continuous burst. § 87(2)(b) moved backward and moved his head down to avoid the stream of pepper spray. PO Scantlebury approached from § 87(2)(b)'s rear, grabbed his arms, and pulled them to § 87(2)(b)'s rear but did not put them in handcuffs. PO Alexander then pepper sprayed § 87(2)(b) with at least one additional burst. Collectively, the bursts of pepper spray lasted approximately 25 seconds. PO Alexander was shouting, "Stay still," repeatedly. Both PO Alexander and PO Scantlebury were also shouting, "Stop resisting." § 87(2)(b) made no additional movements except averting his face from the stream of pepper spray. § 87(2)(b) did not pull his hands away, nor did he try to attack any officer. Additional officers ran over and § 87(2)(b) was handcuffed at this point, but he was not sure by who. Despite PO Alexander's positioning behind § 87(2)(b), § 87(2)(b) did not believe that PO Alexander was injured by the discharging of the pepper spray.

Once § 87(2)(b) was handcuffed, he was led to a vehicle and seated inside it. § 87(2)(b) believed the vehicle was the unmarked black Ford Explorer, but this belief was based solely on the vehicle's proximity, because § 87(2)(b) could no longer see clearly.) While seated inside the vehicle, § 87(2)(b) maneuvered his handcuffed wrists down to the crooks of his knees so that he could rub his face against his legs. § 87(2)(b) felt an officer shove him in an effort to move his handcuffed wrists back to his rear. § 87(2)(b) said, "I can't move. I can't move. Take me to the hospital." § 87(2)(b) heard what sounded like PO Scantlebury's voice say, "You can go to the hospital once you see the judge."

§ 87(2)(b)'s girlfriend came downstairs around this time and he heard her provide his wallet to the officers; she was not downstairs when § 87(2)(b) was being pepper sprayed and arrested nor did she witness any of those events. The only other individuals in the front yard during that process were § 87(2)(b) and § 87(2)(b). § 87(2)(b) and § 87(2)(b) were not arrested.

§ 87(2)(b) was transported to the stationhouse; he was not sure which officers did so and they did not speak during the transport. At the stationhouse, around 4:00 a.m., § 87(2)(b) regained his vision. § 87(2)(b) noticed that approximately eight other individuals from his block had also been arrested. § 87(2)(b) was fingerprinted at that time by PO Alexander, who was still in uniform. § 87(2)(b) was able to read the surname "Anderson" from PO Alexander's nameplate at this time. § 87(2)(b) also saw PO Scantlebury around this time; PO Scantlebury was now dressed in civilian clothes, with an orange shirt. § 87(2)(b) believed that the other officer name that he saw on his arrest paperwork, "Scantlebury," corresponded to PO Scantlebury.) § 87(2)(b) was transported to Brooklyn Central Booking at approximately 8:00 a.m.

Witness: § 87(2)(b)

- § 87(2)(b)

CCRB Statement (encl. 7a):

On January 22, 2013, § 87(2)(b) provided a phone statement. § 87(2)(g)

On August 4, 2012, at approximately 1:00 p.m., § 87(2)(b) and two other men were playing dominos on the sidewalk on § 87(2)(b) between § 87(2)(b) in Brooklyn. § 87(2)(b) was standing alongside them watching the game. PO Scantlebury (identified by the investigation and described as a black male, who stood 6'4"-6'5", had a thin build, was in his mid-20s, had short hair, and was dressed in uniform) and PO Alexander (identified by the investigation and described as a white male, who had sandy-blond hair, and was dressed in uniform with chevrons on the arm) stopped by in an unmarked black Ford Explorer. PO Scantlebury was driving. The officers told the men to stop playing dominos on the sidewalk. § 87(2)(b) and § 87(2)(b) tried to explain that the men were only playing dominos and not negatively affecting anyone. PO Scantlebury said, "Listen, motherfucker," to § 87(2)(b) and explained, inasmuch as § 87(2)(b) recalled, that PO Scantlebury was the authority and that § 87(2)(b) was not and if § 87(2)(b) did not like it, he could join them in the unmarked car. The officers left.

On August 5, 2012, sometime after 12:00 a.m., outside § 87(2)(b) PO Scantlebury stopped by in a marked van with several other police officers. § 87(2)(b) and his mother, § 87(2)(b) came out of their home, which is § 87(2)(b). § 87(2)(b) exited his front yard and asked the officers why they were always bothering people. The officers ran toward § 87(2)(b) slammed him against the outside of the front yard's gate, then slammed him to the ground. § 87(2)(b) tried to stand, but officers pressed a knee into the back of his neck and shoulder while they handcuffed him. § 87(2)(b) tried to physically intervene and was shouting that officers were hurting her son. Officers told § 87(2)(b) to back away and held her back. § 87(2)(b)'s other son, § 87(2)(b) and § 87(2)(b)'s boyfriend were also outside. § 87(2)(b) was placed in the back of the marked van along with § 87(2)(b) and multiple others. PO3 (described as a Hispanic male) transferred § 87(2)(b) and § 87(2)(b) to a separate vehicle because he said that he saw that they were innocent and he wanted to personally process them more quickly.

§ 87(2)(b) no longer lives in the area and § 87(2)(b) had no contact information for him or his son, § 87(2)(b) (last name unknown), who § 87(2)(b) also knows. § 87(2)(b) and § 87(2)(b) are brothers and are both nephews of § 87(2)(b). § 87(2)(b) stated that § 87(2)(b) does not have a phone but stated that he resides at § 87(2)(b). § 87(2)(b) also resides at 127 § 87(2)(b) but § 87(2)(b) did not know his phone number. § 87(2)(b) was present for this incident. § 87(2)(b) confirmed the address on file for § 87(2)(b) and provided a phone number for him.

Attempts to Contact Civilians

On December 31, 2012 and January 9, 2013, please-call letters were mailed to § 87(2)(b) and § 87(2)(b). LexisNexis searches for phone numbers for § 87(2)(b) and § 87(2)(b) yielded negative results. On April 3, 2013 and April 4, 2013, after a contact number was obtained for § 87(2)(b) the undersigned called him and left voicemail messages asking him to return the calls. On April 5, 2013, a please-call letter was mailed to § 87(2)(b). On April 7, 2013, an additional call was made to § 87(2)(b) and a voicemail message was left.

NYPD Statements (encl. 8a-15e):

Subject Officer: PO ANDY SCANTLEBURY

- *PO Scantlebury is a § 87(2)(b)*
- *On August 4, 2012, PO Scantlebury, who has since been reassigned to Quartermaster Section, worked from 5:30 p.m. to 8:00 a.m. the following day and was assigned to a 79th Precinct conditions unit. PO Scantlebury was partnered with PO Brian Alexander, dressed in uniform, and assigned marked patrol car #8805.*

Memo Book (encl. 8a-8d):

At 8:06 p.m., a summons (§ 87(2)(b)) was issued to § 87(2)(b) § 87(2)(b), for an § 87(2)(b), § 87(2)(a) 160.50. A Stop, Question, and Frisk Report was prepared for suspicion of criminal possession of a controlled substance. At 9:19 p.m., at the time and place of occurrence, while assisting with PO Alexander's arrest, an unknown black male and an unknown black female, who claimed to be the perpetrator's mother, tried to prevent the arrest by banging on the arresting officer's vehicle. PO Scantlebury exited the vehicle and approached the female. The male approached PO Scantlebury and PO Scantlebury pushed him away. PO Scantlebury and PO Alexander left the location. At 12:40 a.m., seven males were stopped in front of § 87(2)(b). At 12:55 a.m., six individuals were arrested: § 87(2)(b) for § 87(2)(b), § 87(2)(a) 160.50 and § 87(2)(b) and § 87(2)(b) for § 87(2)(b), § 87(2)(a) 160.50. At 2:03 a.m., § 87(2)(b) was released from the 79th Precinct with a summons for § 87(2)(b). Seven Stop, Question, and Frisk Reports were prepared for suspicion of criminal possession of a controlled substance.

After reading his memo book entries during his interview, PO Andy Scantlebury clarified that the "place of occurrence" in the 9:19 p.m. entry referred to § 87(2)(b) in Brooklyn.

CCRB Statement (encl. 8nn-8pp):

On April 16, 2013, PO Scantlebury was interviewed at the CCRB. At the time of this incident, § 87(2)(b) was a known location within the command for noise complaints and drug sales. The location was often the subject of 311 complaints and SGT Anthony Famighetti advised PO Scantlebury and other members of the conditions unit to keep an eye on the location. Prior to the date of this incident, PO Scantlebury had not made an arrest at the location for any of the above offenses. On August 4, 2012, at approximately 8:06 p.m., PO Scantlebury and PO Alexander drove past § 87(2)(b). PO Scantlebury observed § 87(2)(b) standing on the sidewalk with a red cup in his hand. There were other individuals hanging out outside the building and PO Scantlebury could hear what sounded like a party taking place at the rear of the buildings in the immediate vicinity. When § 87(2)(b) saw PO Scantlebury, he put his red cup on the ground. PO Scantlebury approached and picked up the cup. The cup's contents smelled like alcohol and looked like beer.

PO Scantlebury asked § 87(2)(b) for identification and engaged him in a conversation about the repeat complaints regarding drug sales and people hanging out on the sidewalk impeding pedestrian traffic. § 87(2)(b) told PO Scantlebury that the complaints were lies. PO Scantlebury advised § 87(2)(b) to be more courteous toward his neighbors. After this conversation, PO Scantlebury issued § 87(2)(b) a summons for the open container of alcohol. § 87(2)(b) then walked within inches of PO Scantlebury's face and said, "If you weren't in uniform, I'd fuck you up. This is

§ 87(2)(b). You don't know how we roll." PO Scantlebury said nothing. PO Scantlebury exercised his discretion in ignoring this threat and he and PO Alexander left the location at this point.

At approximately 12:40 a.m., PO Scantlebury drove past § 87(2)(b). PO Scantlebury did not recall who he was with at this time or what vehicle he was in because PO Alexander acquired an arrest between the last visit to § 87(2)(b) and this visit. There was no radio run or specific reason for PO Scantlebury to be there aside from the fact that the location was a known locus of the above-referenced offenses.

PO Scantlebury watched seven individuals playing dice and exchanging money on the sidewalk outside § 87(2)(b) for a period of about three minutes. PO Scantlebury approached the group, intent on arresting each of them for gambling. PO Scantlebury requested identification from all of them in case any of them attempted to flee. PO Scantlebury's partner requested assistance over his radio, PO Scantlebury believed, on account of the volume of people being arrested. Back-up units arrived. PO Scantlebury believed that there were possibly more than ten officers on the scene, including PO Alexander and SGT Famighetti. PO Scantlebury did not recall who any of the other officers were or how many police vehicles were at the location. PO Scantlebury was familiar with the unmarked black Ford Explorer, which was used for special operations assignments, including conditions, at the command, but he did not recall if it was at the location.

Within approximately five minutes of PO Scantlebury's initiation of these arrests, § 87(2)(b) ran up to PO Scantlebury's face. PO Scantlebury did not see where § 87(2)(b) had come from and was unaware of his presence at the location until this point. § 87(2)(b) bumped PO Scantlebury's chest with his own, causing PO Scantlebury to be displaced from his position. PO Scantlebury stepped to the side, but § 87(2)(b) continued advancing toward PO Scantlebury. PO Scantlebury continued stepping to the side of § 87(2)(b)'s advance and told him to leave the location. § 87(2)(b) was shouting and cursing. PO Scantlebury only recalled one statement, "That's the motherfucker that wrote me the summons earlier." § 87(2)(b) continued advancing, so PO Scantlebury decided to arrest § 87(2)(b) for § 87(2)(b), § 87(2)(a) 160.50.

PO Scantlebury grabbed § 87(2)(b)'s arms. § 87(2)(b) resisted handcuffing by flailing his arms. Three to five officers, PO Scantlebury did not recall who, assisted by grabbing and pulling § 87(2)(b)'s arms into handcuffs. They pressed, but did not slam, § 87(2)(b) against a waist-high gate outside the building for leverage. § 87(2)(b) was not taken to the ground. § 87(2)(b) did not try to attack or injure an officer and his resistance was limited to moving his arms away from the handcuffs. No officer used any force against § 87(2)(b) aside from grabbing and pulling at his arms. No officer pressed a knee into the back of § 87(2)(b)'s neck or shoulder. § 87(2)(b) was not pepper sprayed. After approximately two minutes, § 87(2)(b) was handcuffed. PO Scantlebury saw no visible injuries to § 87(2)(b) was frisked incident to the arrest after the handcuffing. PO Scantlebury did not see when § 87(2)(b) was loaded into a vehicle. PO Scantlebury knew that he did not transport § 87(2)(b) but he did not recall who did, and he did not recall if he transported any of the other prisoners. PO Scantlebury did not see § 87(2)(b) slide his handcuffed wrists down his legs in an attempt to shift them to his front. Six of the original seven individuals were arrested for § 87(2)(b), § 87(2)(a) 160.50. The seventh got away but was arrested at a later date. § 87(2)(b) did not ask PO Scantlebury to obtain medical treatment for him nor did PO Scantlebury hear § 87(2)(b) make such a request of any other officer. PO Scantlebury never directed profanity at a civilian at this location during either visit, including the specific alleged remark, nor did he hear another officer do so.

Subject Officer: PO BRIAN ALEXANDER

- *PO Alexander is a § 87(2)(b)*
- *On August 5, 2012, PO Alexander worked from 5:30 p.m. to 5:05 a.m. and was assigned to the 79th Precinct conditions unit. PO Alexander was partnered with PO Andy Scantlebury, dressed in uniform, and assigned marked patrol van #8806.*

Memo Book (encl. 9a-9c):

At 8:15 p.m., a black male was stopped in front of § 87(2)(b). At 8:20 p.m., a summons was issued by PO Scantlebury. At 9:22 p.m., PO Alexander returned to the 84th Precinct stationhouse to process an arrest (unrelated to this incident). At 1:35 a.m., there was a radio run for a 10-85 (request for assistance) at § 87(2)(b) by the 79th Precinct conditions unit. At 1:40 a.m., six individuals were arrested by the 79th Precinct conditions unit. At 5:05 a.m., PO Alexander ended his tour.

CCRB Statement (encl. 9d-9f):

On April 17, 2013, PO Alexander was interviewed at the CCRB. § 87(2)(g)

On August 4, 2012, at approximately 9:19 p.m., PO Alexander picked up an arrest and returned to the 79th Precinct stationhouse. PO Scantlebury continued patrol. PO Alexander remained at the stationhouse processing his arrest until 1:35 a.m., when there was a radio run requesting additional officers at § 87(2)(b). PO Alexander recalled nothing further about the radio run.

PO Alexander immediately left the stationhouse in a vehicle. PO Alexander did not recall what vehicle he used or who he went with or if whoever he went with was a member of the conditions unit. After approximately two minutes, PO Alexander arrived at § 87(2)(b). PO Alexander saw PO Scantlebury, SGT Anthony Famighetti, and a group of loud civilians. PO Alexander did not recall what other officers were there or who the civilians were. PO Alexander did not recall if any officers in plainclothes were at the location.

One of the civilians, identified by the investigation as § 87(2)(b), was engaged in a verbal dispute with PO Scantlebury and continued “getting into” PO Scantlebury’s face. PO Scantlebury and other officers, PO Alexander did not recall who, handcuffed § 87(2)(b). PO Alexander did not recall if any force was necessary to effect the handcuffing, how long it took, or whether § 87(2)(b) had to be put against a wall or the ground in the process. § 87(2)(b) was handcuffed on the sidewalk outside of 131 § 87(2)(b). The other individuals were arrested for gambling. PO Alexander did not recall if he assisted in the handcuffing of any of the other civilians nor did he observe the gambling offense at the point he responded to the incident.

PO Alexander was shown arrest paperwork for § 87(2)(b). After seeing a quote attributed to § 87(2)(b) “You’re the motherfucker that wrote me the summons; I’m going to fuck you,” PO Alexander recalled § 87(2)(b) saying something to that effect to PO Scantlebury. PO Alexander recalled nothing further after reviewing additional arrest paperwork. PO Alexander did not see an individual get pepper sprayed in his face at the scene. PO Alexander did not see an arrested individual with visible injuries or hear such an individual request medical attention. PO Alexander did not hear an officer tell anyone, “You can go to the hospital once you see the judge,” nor did he say so. PO Alexander did not see an officer press a knee into the neck or upper back of an individual, nor did he do so. PO Alexander did not hear an officer direct profanity at anyone, including addressing anyone by saying,

“Listen motherfucker,” nor did he say so. PO Alexander did not recall if he transported any prisoners to the stationhouse. PO Alexander did not recall if an unmarked black Ford Explorer was in use by the conditions unit on this date, but acknowledged that a vehicle of that make and model was in use by the conditions unit on other occasions.

Witness Officer: SGT ANTHONY FAMIGHETTI

- *SGT Famighetti, who has since been reassigned to Internal Affairs Bureau, is a § 87(2)(b)*
- *On August 4, 2012, SGT Famighetti worked from 5:15 p.m. to 2:12 a.m. the following day and was assigned as the supervisor of a 79th Precinct conditions unit. SGT Famighetti was partnered with PO Pamela Benites and PO Raymond Williams, dressed in uniform, and assigned marked patrol car #3210.*

Memo Book (encl. 10a-10c):

At 12:55 a.m., six individuals were arrested in front of § 87(2)(b) for § 87(2)(b), § 87(2)(a) 160.50. Pepper spray was used to prevent assault on the undersigned. The defendant ran and was not apprehended. A complaint report was prepared for obstruction of governmental administration. The unknown defendant was a black male, who appeared 25 years old and was wearing a white shirt and blue jeans. At 1:00 a.m., SGT Famighetti supervised arrest processing at the 79th Precinct stationhouse.

CCRB Statement (encl. 10d-10f):

On September 12, 2013, SGT Famighetti was interviewed at the CCRB. § 87(2)(g)

On August 5, 2012, at approximately 12:55 a.m., SGT Famighetti observed a group of approximately ten people in front of § 87(2)(b). Several individuals in the group were playing cards at a table and exchanging money. Others were drinking.

SGT Famighetti exited his vehicle to issue summonses for the observations. SGT Famighetti did not recall if PO Benites and PO Williams were still in his vehicle at this time, but he assumed they were. The people in the group refused to provide identification. SGT Famighetti approached one member of the group to handcuff him. This individual began shouting and cursing, and the other members of the group did the same. The person SGT Famighetti tried to arrest began resisting and the other members of the group started shoving around. SGT Famighetti did not recall this individual's name when compared with the list noted in his memo book.

An officer, SGT Famighetti did not recall who, requested additional units at the location. Several additional units responded; SGT Famighetti did not recall how many or who the officers were, except for PO Andy Scantlebury. The additional units went about arresting people. A crowd of bystanders formed.

While SGT Famighetti attempted to arrest someone, SGT Famighetti did not recall if this was this same person from before or another, an unidentified individual emerged from the crowd, ran toward SGT Famighetti, and swung once at him but missed. SGT Famighetti ordered the unidentified man to get back repeatedly but the unidentified man advanced again within an arm's length.

SGT Famighetti took out his pepper spray and discharged it toward the unidentified man's face. SGT Famighetti did not recall if he gave a warning about the pepper spray or if the discharge connected with the man's face. The unidentified man retreated. SGT Famighetti advanced toward him, but the

unidentified man fled in the direction of § 87(2)(b). SGT Famighetti did not pursue the man because of the high number of arrested individuals and the chaotic nature of the situation at the location.

SGT Famighetti was unaware of another person being pepper sprayed at the location and he did not see another officer take out his or her pepper spray. None of the arrested individuals complained of being affected by the pepper spray, requested medical treatment, or asked that their eyes be flushed out. SGT Famighetti did not recall if any of the arrested individuals had to be taken to the ground. SGT Famighetti did not see an officer press a knee into the back of an individual's neck on the ground, nor did he do so. SGT Famighetti did not hear an officer tell an individual, "You can go to the hospital once you see the judge," nor did he say so. SGT Famighetti did not hear an officer refer to an individual as a "motherfucker" at the location, nor did he say so. SGT Famighetti reviewed a photo of § 87(2)(b) and stated that he did not pepper spray the individual in the photo or see the individual pepper sprayed by another officer. SGT Famighetti did not transport any of the prisoners to the stationhouse. SGT Famighetti was at the location for approximately five minutes. SGT Famighetti did not recall if the conditions team used an unmarked black Ford Explorer on this date, or if such a vehicle was ever in use by the conditions team around this time period.

Witness Officer: PO RAYMOND WILLIAMS

- *PO Williams is a § 87(2)(b)*
- *On August 4, 2012, PO Williams worked from 5:30 p.m. to 5:35 a.m. the following day and was assigned to a 79th Precinct conditions unit. PO Williams was partnered with PO Pamela Benites, dressed in uniform, and assigned a marked patrol car #3210.*

Memo Book (encl. 11a-11c):

At 12:30 AM, PO Williams received a call for additional units needed at § 87(2)(b) by conditions supervisor SGT Anthony Famighetti. There were six people under arrest by PO Andy Scantlebury.

CCRB Statement (encl. 11d-11f):

On April 18, 2013, PO Williams was interviewed at the CCRB. § 87(2)(g)

On August 5, 2012, at approximately 12:30 a.m., PO Williams responded to a 10-85 run from SGT Famighetti and pulled up to § 87(2)(b) with PO Benites. He did not recall any other details of the radio run. PO Williams said he had never been at this location any earlier in the evening based on his recollection and his memo book.

PO Williams did not know who was driving his marked patrol van that night. He did not see a black Ford Explorer that night, stating that the conditions team never used a black Ford Explorer. PO Williams also did not recall seeing any unmarked police vehicles either. At the location, PO Williams saw multiple officers. Among them he saw SGT Famighetti and PO Scantlebury. He did not recall if there were any plainclothes officers or officers assigned to units other than conditions at the scene.

The six perpetrators were already inside of a marked vehicle and the incident was wrapping up. PO Williams did not witness any aspect of the physical apprehension of the defendants. PO Williams did not see any signs of physical injuries on anyone at the location. PO Williams did not, nor did he see, any officer discharge pepper spray. PO Williams didn't hear anyone in custody request medical attention or an officer tell them they could go to the hospital after they saw the judge. PO Williams did not refuse to

retrieve medical attention for a perpetrator. PO Williams did not interact with any of the defendants, nor did PO Benites.

Additional Officers Interviewed:

PO Pamela Benites was also interviewed for this case. Although PO Benites was partnered with PO Williams and responded to the location, she had no recollection of what transpired at the scene. SGT Paul Scocca, PO James Haley, and PO Lukasz Organistka were also interviewed for this case. None of them responded to the location. Because their interview statements did not affect the recommended dispositions in this case, they are not included in this report.

NYPD Documents (encl. 16a-16x):

SPRINT #§ 87(2)(b) (encl. 16a)

On August 5, 2012, at approximately 12:41 a.m., there was a 10-10 P2 radio run (suspicious people outside) outside § 87(2)(b). At 12:41 p.m., a 79th Precinct conditions unit responded to the location. At 12:48 p.m., Central reported on behalf of a sergeant that there was a disorderly group at the location and one additional unit was needed. At 12:49 a.m., a 79th Precinct sergeant requested additional units at the location. At 12:51 a.m., a 79th Precinct anti-crime unit responded to the location. At 12:52 a.m., a 79th Precinct conditions unit requested verifications for six arrests. At 2:16 a.m., a 79th Precinct sergeant resumed patrol. At 4:29 a.m., a 79th Precinct anti-crime unit resumed patrol. At 7:30 a.m., there was a final disposition of an arrest.

Arrest for Incident and Disposition:

- As of December 3, 2013, the Office of Court Administration revealed no record of the arrest of § 87(2)(b).

Status of Civil Proceedings (encl. 17a):

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of December 10, 2013 with regard to the incident.

Civilian's Criminal History (encl. 18a-18e):

- As of December 3, 2013, Office of Court Administration records reveal no recent criminal convictions for § 87(2)(b).

Civilian's CCRB History (encl. 2a):

- This is the first CCRB complaint filed by § 87(2)(b).

Subject Officers' CCRB Histories (encl. 1a-1b):

- PO Scantlebury has been a member of the service for eight years and there are no substantiated CCRB allegations against him.
- PO Alexander has been a member of the service for three years and there are no substantiated CCRB allegations against him.

Conclusion

Identification of Subject Officers

PO Scantlebury acknowledged his presence at the location and his interaction with § 87(2)(b). PO Alexander was identified based on his acknowledgement of his presence at the location, his assignment as PO Scantlebury's partner, which matched the alleged fact pattern, and his surname, which was similar to

that provided by § 87(2)(b) Although SGT Famighetti acknowledged pepper spraying another individual at the location, in addition to the factors noted above, the physical description provided by § 87(2)(b) for the subject officer of the pepper spray allegation matched PO Alexander more closely than SGT Famighetti.

Investigative Findings and Recommendations

Allegations Not Pleaded

Allegations of stops are not pleaded in this case because § 87(2)(b) did not witness the events that led to the interaction between his nephew, his nephew's friend, and the police. Moreover, based on the totality of the circumstances, the investigation determined that any stops were near simultaneous to the arrests at the location and thus subsumed under a general arrest dispute.

Allegation A – Discourtesy: An officer spoke rudely to an individual.

According to § 87(2)(b) on August 4, 2012, at approximately 1:00 p.m., officers from the same unit that responded later that evening were at the same location. At that time, one of the officers allegedly addressed "§ 87(2)(b)" by saying, "Listen motherfucker." § 87(2)(b) did not corroborate this allegation, nor did he allege an interaction with these officers during the afternoon. Moreover, § 87(2)(b) stated that he knew no one by the nickname, "§ 87(2)(b)"

§ 87(2)(g)

Allegation B – Force: PO Andy Scantlebury used pepper spray against § 87(2)(b)

Allegation C – Force: PO Brian Alexander used pepper spray against § 87(2)(b)

Allegation D – Abuse of Authority: PO Andy Scantlebury did not obtain medical treatment for

§ 87(2)(b)

It remains disputed whether § 87(2)(b) was pepper sprayed and whether he was denied a request for medical treatment.

According to § 87(2)(b) after he intervened on behalf of his nephew and his nephew's friend, officers began taking him into custody. § 87(2)(b) made a verbal objection to his feet being kicked apart prior to his handcuffing. In response, PO Scantlebury discharged pepper spray into § 87(2)(b)'s face. PO Alexander followed this by discharging his own pepper spray into § 87(2)(b)'s face after PO Scantlebury. After they handcuffed him and loaded him into a department vehicle, § 87(2)(b) asked for medical treatment. In response, § 87(2)(b) heard PO Scantlebury's voice state that he could only see a doctor once he was arraigned. § 87(2)(b) did not corroborate these allegations.

All of the officers interviewed who recalled the incident, in exception of SGT Famighetti, denied that pepper spray was used against anyone, including § 87(2)(b) SGT Famighetti stated that he discharged pepper spray toward the face of an unidentified, unapprehended individual, who attempted to strike SGT Famighetti while SGT Famighetti assisted in handcuffing another individual. SGT Famighetti denied pepper spraying § 87(2)(b) or anyone else at the location, and did not see another officer use pepper spray. Additionally, all of the officers, including SGT Famighetti denied refusing to provide medical treatment to § 87(2)(b)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date